



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF THE
CHAIRWOMAN

November 17, 2023

The Honorable Anna G. Eshoo
U.S. House of Representatives
272 Cannon House Office Building
Washington, DC 20515

Dear Representative Eshoo:

Thank you for your letter regarding the status of certain pending long-form applications filed by winning bidders for spectrum licenses won in the 2496-2690 MHz (2.5 GHz) auction (Auction 108). I agree that the 2.5 GHz band holds great promise for expanding access to modern wireless services and closing the digital divide. For three decades the Federal Communications Commission has held spectrum license auction authority under Section 309 of the Communications Act without interruption—and this authority has been a powerful economic force. It has supported domestic deployment and innovation that, in turn, has made the United States a global leader in wireless technology.

I also share your frustration with the statutory restrictions that currently prevent moving ahead with the licensing process for this auction. Section 309(j)(11) explicitly states that the Commission’s authority to “grant a license or permit” for any spectrum that is auctioned “shall expire March 9, 2023.” This provision is straightforward.

Furthermore, any effort to license these airwaves with temporary authority is conditioned on the agency’s having relevant authority. To this end, the Communications Act states that special temporary authority pursuant to Section 309(f) may be granted only “if the grant of such application is otherwise authorized by law.” Here, that authorization expired on March 9, 2023. If the Commission were to expend funds to continue to process the licenses won in Auction 108 notwithstanding the sunset of our authority to do so, it would put the agency staff at risk of criminal penalties for violating the Antideficiency Act.

I am encouraged by recent Senate approval of the 5G Spectrum Authority Licensing Enforcement Act (S. 2787) and the introduction of a House companion bill (H.R. 5677). Expedient action on these bills will give the Commission the authority to issue the remaining 2.5 GHz licenses.

While this would provide the legal authority needed to resolve the immediate situation with these licenses, it is only a band aid on the larger problem. We need Congress to renew the Commission's general spectrum auction authority as soon as possible. This lapse has delayed more than just the grant of remaining 2.5 GHz band licenses; it has slowed the ability of the United States to advance our historic leadership role on spectrum planning and development issues. Our auctions and advance spectrum planning have been a model for others around the world. But when we do not have this authority and the capability to develop a reliable spectrum pipeline for new commercial purposes, we lack the strongest foundation needed to compete in a global digital economy, counter our adversaries' technology ambitions, and safeguard our national security.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Rosenworcel", with a long horizontal flourish extending to the right.

Jessica Rosenworcel